
**Financial Institutions & Insurance
Committee**

HB 1749

Brief Description: Regulating the business practices of mortgage brokers for compliance with the secure and fair enforcement for mortgage licensing act of 2008.

Sponsors: Representatives Bailey and Kirby.

Brief Summary of Bill

- Modifies licensing, educations, and background check standards for mortgage brokers and loan originators.

Hearing Date: 2/3/09

Staff: Jon Hedegard (786-7127)

Background:

The Department of Financial Institutions (DFI) licenses mortgage brokers and loan originators under the Mortgage Broker Practices Act (MBPA). The MBPA has provisions regarding licensing, continuing education, prohibited practices, examinations, investigations, and criminal, civil, and administrative penalties for mortgage brokers and loan originators.

The DFI currently requires all mortgage brokers and loan originators to file license applications through the Nationwide Mortgage Licensing System (NMLS). The NMLS was created in 2004 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The NMLS began operations in January of 2008. According to the NMLS, 42 states are current members or have signed a Statement of Intent regarding their participation in the NMLS.

On July 30, 2008 President Bush signed H.R. 3221 (P.L. 110-289). Title V of H.R. 3221 is referred to as the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the SAFE Act, all states must have a system of licensing in place for residential mortgage loan originators by August 1, 2009 that meets national definitions and minimum standards, including:

- criminal history and credit background checks;
- pre-licensure education;
- pre-licensure testing;
- continuing education;
- net worth, surety bond or recovery fund; and
- licensing mortgage loan originators through a Nationwide Mortgage Licensing System and Registry (NMLS&R).

The Secretary of the United States Department of Housing and Urban Development is required to establish and maintain a backup licensing and registration system for loan originators operating in a state that:

- does not have a licensing and registering system for loan originators that meets the requirements of the SAFE Act; or
- does not participate in the NMLS&R.

Summary of Bill:

The definition of "loan originator" is modified. Additionally new definitions are created.

Applications for a mortgage broker or a loan originator license must be made through the NMLS&R. An application for a mortgage broker or a loan originator license must include fingerprints and other specific background information. The Director of the Department of Financial Institutions (Director) may adopt rules regarding licensing.

An applicant must complete minimum pre-licensing education requirements approved and administered by the NMLS&R.

An individual must pass a test developed by the NMLS&R and administered by a provider approved by the NMLS&R.

Applicants must use a form prescribed by the Director. The Director may establish contracts with the NMLS&R to collect and maintain records and fees related to licensees.

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Applications for a mortgage loan originator must be made through the NMLS&R. An application for a license must include fingerprints and other specific information. The Director may adopt rules regarding licensing.

A mortgage broker originator licensee must meeting minimum continuing education requirements approved and administered by the NMLS&R. The Director must establish other standards by rule for license renewal.

The Director must establish a process for mortgage loan originators to challenge the information entered into the NMLS&R by the Director.

A mortgage broker licensee must maintain a minimum bond amount. The Director may establish a range of bond amount based on the dollar amount of loans originated by the licensee.

The information and materials used for the NMLS&R are subject to existing state and federal laws even after provided to the by the NMLS&R. Information may be shared by the Director with other governmental agencies and regulatory associations without a loss of any privilege or confidentiality under the law.

Specific entities and their employees exempt from the MBPA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2010.